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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,583	02/28/2002	William J. Purpura	7784-000397	3936

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EXAMINER

PHILIPPE, GIMS S

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/087,583	PURPURA, WILLIAM J.	
	Examiner	Art Unit	
	Gims S. Philippe	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Response to Amendment

1. Applicant's amendment received on July 6th, 2005 in which claim 1 was amended, and claim 6 was canceled has been fully considered and entered, but the arguments are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 3-5, 7, 14, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ito et al. (US Patent no. 6,244,015).

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Regarding claim 1, Ito discloses the same monitoring apparatus for monitoring a position and at least one activity of an individual wearing the monitoring apparatus as well as providing real time access to a wireless LAN (See Ito col. 4, lines 17-38), the monitoring apparatus comprising a set of hardware including a positioning receiver and at least one video camera (See Ito fig. 3, worker 40, helmet 49, camera 53, relay device 42, and col. 6, lines 29-34) the positioning receiver being operable for determining the position of the individual and generating a position signal in response thereto (See col. 6, lines 18-22), the at least one video camera being operable for monitoring an activity of the individual and generating an associated activity video signal in response thereto (See fig 1, camera 10, and col. 4, lines 48-52); a controller coupled to the positioning receiver and the at least one video camera and receiving the position signal and each activity video signal (See col. 5, lines 12-26 and lines 44-58), the controller being configured to forward the position signal and each activity video signal to a remote monitoring station in real time via a wireless interface (See col. 5, lines 58-65); a heads up display for displaying a set of data transmitted thereto by the controller (See Ito fig. 11, item 113, col. 4, lines 52- 54, col. 13, lines 16-20), a power supply for powering the positioning receiver, the at least one video camera and the controller (See col. 4, lines 32-34, col. 5, lines 33-38); and at least one article for housing the positioning receiver, the at least one video camera, the controller and the power supply, the at least one article being wearable by the individual (See Ito fig. 7, site worker helmet 88 serving as the housing, and col. 8, lines 13-18).

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As per claims 3-5, Ito further provides the same monitoring apparatus wherein one article is configured to be worn by the individual (See Ito fig. 7, helmet 88, worker 40 of fig. 3, wearing items 49, 55, 57, and col. 13, lines 56-64).

As per claim 7, Ito further configures the camera to be coupled to the head of the individual (See Ito fig. 3, helmet 49 with camera 53, and col. 6, lines 37-67).

As per claim 14, Ito further provides a cable to connect the monitoring set of hardware to the controller (See col. 13, lines 41-43).

As per claims 16-17, the step of providing data entry is inherent in Ito's I/O device when operation of the control room is in progress (See col. 9, lines 7-24).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (US Patent no. 6244015).

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As per claim 8, most of the limitations of this claim have been noted in the above rejection of claim 1.

It is noted that Ito does not specifically disclose placing a camera to the arm of the individual.

However, since Ito discloses the flexibility of modifying the monitoring apparatus in col. 15, lines 27-65, such feature of *“placing a camera to the arm of the individual”* is considered as an obvious design choice that anyone skilled in the art at the time of the invention would be motivated to provide.

As per claim 9, the plurality of light coupled to the article proximate each of the cameras is considered met by Ito as seen in col. 5, lines 4-6 and col. 7, lines 16-19.

6. Claims 10-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (US Patent no. 6244015) in view of Jacobsen et al. (US Patent no. 6198394).

As per claims 10-11, most of the limitations of these claims have been noted in the above rejection of claim 1.

It is noted that while Ito provides a portable/removable battery pack power supply (See col. 4, lines 32-34 and col. 5, lines 33-40), it is silent about a rechargeable battery pack.

However, Jacobsen discloses a monitoring apparatus with a battery pack, which is rechargeable (See Jacobsen col. 15, lines 26-29).

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Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying Ito's portable battery pack by incorporating Jacobsen's rechargeable battery pack. The motivation for performing such a modification is to maximize the battery life of the portable monitoring apparatus as taught by Jacobsen (See Jacobsen col. 15, lines 26-30).

As per claims 12-13, and 15, most of the limitations of these claims have been noted in the above rejection of claim 1.

It is noted that Ito is silent about coupling an alarm device to generate an alarm and illumination signals when an unauthorized area is entered.

Jacobsen discloses an alarm with illumination or sound signal when an alarm condition is present (See col. 9, lines 29-32, and col. 11, lines 46-50).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of providing an alarm with illumination. The motivation for providing such device is to alert the appropriate authority for prompt corrective action.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito (US Patent no. 6244015) in view of Curatolo et al. (US Patent no. 6510380).

Regarding claim 7, most of the limitations of this claim have been noted in the above rejection of claim 1.

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It is noted that Ito is silent about the receiver being a GPS positioning receiver. Curatolo discloses a monitoring apparatus including a GPS positioning receiver (See Curatolo col. 3, lines 5-7, and col. 4, lines 7-10).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying the receiver of Ito's monitoring system by incorporating Curatolo's GPS receiver. The motivation for such a modification in Ito is to be able to geographically locate the worker/individual at all time.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-7336. The examiner can normally be reached on M-F (9:30-7:00) Second Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dastouri S. Mehrdad can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gims S Philippe
Primary Examiner
Art Unit 2613

GSP

September 14, 2005